

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**MARTY HINTON,**

individually and on behalf of all other  
similarly situated individuals,

Plaintiff,

v.

**ATLANTIC UNION BANK,**

Defendant.

Civil Action No. 3:20-cv-00651-JAG

**DECLARATION OF JEFFREY D. KALIEL IN SUPPORT OF PLAINTIFF'S  
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

I, Jeffrey D. Kalien, declare:

1. I am counsel of record for Plaintiff Marty Hinton and the proposed Class in the above captioned matter. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. Unless otherwise noted, I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them if called upon to do so.

**Class Counsel Experience and Expertise**

2. Class Counsel is highly experienced in consumer class action litigation, as demonstrated by their firm resumes, and have brought that significant experience to bear in litigating and settling this case.

3. Class Counsel collectively have decades of experience litigating consumer class actions against financial institutions and have litigated and settled dozens of class actions involving overdraft fees, non-sufficient fund fees, and other bank fees.

4. Based on their experience, Class Counsel endorse the Settlement as fair and adequate.

KalielGold PLLC Experience.

5. Kaliel Gold PLLC (“KG”) has extensive experience in consumer protection class actions in both state and federal court and has represented accountholders in hundreds of class actions against financial institutions.

6. Mr. Kaliel has been appointed lead Class Counsel in numerous nationwide and state-specific class actions, with a specific emphasis on financial institution litigation. In that capacity, Mr. Kaliel has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery, and worked extensively with economics and information technology experts to build damages models. Mr. Kaliel has also successfully resolved numerous class actions by settlement, resulting in hundreds of millions of dollars in relief for millions of class members.

7. Mr. Kaliel and his colleague Sophia Gold are currently class counsel in numerous ongoing putative class action lawsuits. Additionally, KG has been named class counsel or settlement class counsel in numerous class actions including, *inter alia*, *Figueroa v. Capital One, N.A. et al.*, No. 3:18-cv-00692 (S.D. Cal.); *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.); *Liggio v. Apple Federal Credit Union*, No. 18-cv-01059 (E.D. Va.); *Walters v. Target Corporation*, No. 3:16-CV-01678-L-MDD (S.D. Cal.); *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01-GWBC (1st Cir. Haw.); *Brooks v. Canvas Credit Union*, 2019CV30516 (Denver Cnty., Colo. Dist. Ct); *Martin v. L&N Federal Credit Union*, No. 19-CI-002873 (Jefferson Cir. Ct., Tenn.); *Lambert v Navy Federal Credit Union*, No. 1:19-cv-00103 (E.D. Va.); *Perks v Activehouse d/b/a Earnin*, No. 5:19-cv-05543 (N.D. Cal.); and *White v Members 1st Credit Union*,

No. 1:19-cv-00556 (M.D. Pa.). Mr. Kaliel and Ms. Gold's biographies and experience are further detailed in the firm's resume, attached hereto as **Exhibit A**.

Cohen & Malad, LLP Experience

8. For the last 50 years, Cohen & Malad, LLP ("C&M") has served as class counsel in numerous local, statewide, multi-state, nationwide, and even international class actions. *See, e.g., In re Holocaust Victim Assets Litig.*, 105 F. Supp. 2d 139 (E.D.N.Y. 2000) (settlement of \$1.25 billion for claims relating to conversion of bank accounts and property of victims of the Holocaust); *Raab v. R. Scott Waddell, in his official capacity as Commissioner of the Indiana Bureau of Motor Vehicles et al.*, Nos. 49D12-1303-PL-008769, 49D11-1310-PL-038001 (Ind. Super. Ct.) (settlements, including after trial and judgment, of approximately \$100 million in overcharges for motor vehicle and license fees). C&M has also served in leadership positions in numerous multidistrict litigation matters and state court consolidations of multiple matters. *See Pain Pump Device Litig.* (C&M served as National Coordinated Counsel); *Excellus Data Breach Litig.*, No. 6:15-CV-06569 (W.D.N.Y.) (Ms. Toops appointed to executive steering committee in data breach litigation); *In re: Johnson & Johnson Talcum Powder Prods. Mktg., Sales Practices, and Prods. Liability Litig.*, No. 16-md-2738 (FLW) (LHG) (D.N.J. Dec. 6, 2016) (ECF) (appointing C&M to plaintiffs' steering committee).

9. Ms. Toops and her team are currently litigating hundreds of class actions against financial institutions across the country for the improper assessment of various account fees. In these cases, Ms. Toops and her team have engaged in extensive written and oral advocacy to achieve dozens on rulings in the consumers' favor. Ms. Toops and her team have also worked with voluminous discovery, including ESI and transactional data, to prosecute these claims and to work with experts in analyzing data for damages. In dozens of these cases, Ms. Toops and her team have recovered tens of millions of improperly collected fees on behalf of consumers. *See, e.g., Terrell*

*et al. v. Fort Knox Credit Union*, No. 19-CI-01281 (Ky. Cir. Ct.) (C&M appointed class counsel and achieving settlement representing nearly 70% of damages); *Hill v. Ind. Members Credit Union*, No. 49D02-1804-PL-016174 (Ind. Super. Ct.) (C&M appointed class counsel and achieving settlement representing nearly 80% of damages).

10. A listing of Cohen & Malad's leadership roles and notable cases can be found in the firm's resume, attached hereto as **Exhibit B**.

Branstetter, Stranch & Jennings, PLLC Experience

11. Branstetter, Stranch & Jennings, PLLC ("Branstetter") was appointed to the Plaintiffs' Steering Committee in the *In re: Volkswagen "Clean Diesel" Multi-District Litigation*, in which the district court recently approved settlements obligating *Volkswagen* to pay a minimum of \$17 billion (including a buyback fund of over \$10 billion to eligible class members). This settlement was reported as the largest auto scandal payout in U.S. history. Similarly, in *In re Wellbutrin XL Antitrust Litigation*, in its role as co-lead counsel, Branstetter successfully petitioned for certification of a class of indirect purchasers for a brand and generic version of a pharmaceutical antidepressant, achieved a \$12 million settlement for the that class, and received praise from the presiding district court judge for its work. Branstetter served on the Plaintiffs' Executive Committee in *Dahl v. Bain Capital Partners, LLC*, a federal antitrust case challenging bid rigging and market allocation in the private equity/leveraged-buyout industry, which reached a \$590.5 million settlement approximately two months before trial and was finally approved in 2015. Branstetter also currently serves on the Plaintiffs' Steering Committee in the *In re New England Compounding Pharmacy, Inc. Products Liability Litigation*, a mass-tort MDL proceeding stemming from the 2012 fungal meningitis catastrophe caused by tainted pharmaceuticals that resulted in the deaths of over 100 people and 700 fungal infections across the country. Although the compounding pharmacy ultimately filed for Chapter 11 bankruptcy protection, Branstetter

(along with the rest of the Plaintiffs' Steering Committee) secured over \$230 million for victims in settlements with the compounding pharmacy, its vendors, and its health-care facility customers. Branstetter also recently obtained final approval of a \$1.6 million class settlement in a TCPA "junk fax" class action in *Davis Neurology, P.A. v. Dental Equities, LLC, et al.* (E.D. Ark.). Mr. Stranch and his team are currently litigating hundreds of class actions against financial institutions across the country for the improper assessment of various account fees. In these cases, Mr. Stranch and his team have engaged in extensive written and oral advocacy to achieve dozens of rulings in the consumers' favor, and worked with voluminous discovery. In dozens of these cases, Mr. Stranch and his team have recovered tens of millions of improperly collected fees on behalf of consumers. See, e.g., *Terrell et al. v. Fort Knox Credit Union*, No. 19-CI-01281 (Ky. Cir. Ct.) (Branstetter appointed class counsel and achieved settlement representing nearly 70% of damages).

12. A listing of Branstetter's leadership roles and notable cases can be found in the firm's resume, attached hereto as **Exhibit C**.

### **The Settlement**

13. The Parties agreed to a mediation on July 1, 2020, before Judge Anderson, a United States Magistrate Judge of this Court.

14. Before mediation, the Parties exchanged mediation briefs and provided confidential mediation statements to Judge Anderson.

15. Atlantic Union provided proposed Class Counsel with sample account-level transactional data for the proposed Settlement Class, from which Plaintiff's expert extrapolated estimated class-wide damages for the proposed Class Period.

16. On March 11, 2021, the Parties met for a settlement conference before Judge Anderson.

17. Class Counsel entered the mediation fully informed of the merits of Settlement Class Members' claims and negotiated the proposed Settlement while zealously advancing the position of Plaintiff and Settlement Class Members.

18. U.S. Magistrate Judge Anderson actively supervised and participated in the settlement discussions. The Parties made some progress but were unable to reach a settlement that day.

19. However, the Parties continued to negotiate with the assistance of Judge Anderson. The Parties met with Judge Anderson for another settlement conference on March 18, 2021.

20. Again, progress was made but no settlement was reached.

21. Then again on April 20, 2021—after further data analysis was done by the Parties—the Parties met with Judge Anderson for a further settlement conference. At that time, the Parties reached an agreement in principle on the terms of a settlement. The Parties then worked over the following three months to document a full Settlement Agreement, devise a notice plan and Notices, and prepare a preliminary approval filing.

22. Atlantic Union has agreed to revise its account agreement and related documents to clarify when “APPSN” Overdraft Fees may be assessed and pay \$1,600,000 into a settlement fund, which will be used to pay the claims of the Settlement Class Members, any Service Award to the Class Representative, and any Fee Award to Class Counsel.

23. The proposed Settlement Administrator is Angeion Group, a nationally recognized and experienced class action administrator.

24. The Parties' proposed Notice Program is designed to reach as many Settlement Class members as possible and is the best notice practicable under the circumstances.

25. This robust Notice Program is informative, practical, and reasonably designed to reach the vast majority of Settlement Class members.

26. The likely duration and expense of continued litigation are substantial.

27. Based on the data provided by Atlantic Union to Class Counsel, there are several thousand Settlement Class members.

**Attorneys' Fees, Costs and Service Award**

28. Class Counsel has not been paid for their extensive efforts or reimbursed for litigation costs and expenses incurred.

29. The Settlement was negotiated in the absence of collusion and is the result of good-faith, informed, arms'-length negotiation between experienced and sophisticated counsel, in conjunction with a Magistrate Judge of this Court.

30. The relief provided by the Settlement—a non-reversionary, \$1,600,00 Settlement Fund and a revision of Atlantic Union's account agreement—is substantial and adequate.

31. The injunctive relief, in addition to direct cash payments, will inure the benefit of the Settlement Class, other Atlantic Union members, and future Atlantic Union members who will be better able to understand when fees will be assessed to their accounts.

32. While Plaintiff strongly believes in his claims, Atlantic Union asserted a number of defenses and arguments that, absent settlement, raised significant risk of affecting any recovery for himself and the Class. This also highlights the risk to the class in proceeding absent settlement: Atlantic Union disputed whether Plaintiff would be able to successfully certify a class on a litigation basis.

33. Class Counsel's skill, experience, and efficiency support the fee request. Class Counsel are experienced in class action litigation, serving as Lead or Co-Lead Counsel in dozens of consumer class actions in federal and state courts throughout the country.

34. Class Counsel performed significant research on Atlantic Union, its OD Fee assessment practices, and consumer complaints—even before filing the case.

35. Class Counsel thoroughly investigated Plaintiff's claims; prepared and filed the Complaint; briefed and argued Atlantic Union's two Motions to Dismiss; and, after the Court granted the motion, began an extensive discovery effort, including Requests for Production, Interrogatories, and negotiation of an ESI protocol and search terms.

36. Class Counsel has also reviewed data regarding the "APPSN" Overdraft Fees charged to the Settlement Class and provided in settlement communication by Atlantic Union.

37. Class Counsel expended significant resources researching and developing the legal claims at issue.

38. Class Counsel is familiar with the claims as they have litigated and resolved cases with similar factual and legal issues.

39. Class Counsel has experience in understanding the remedies and damages at issue, as well as what information is critical in determining class membership.

40. The Parties also engaged in extensive, good-faith, arms'-length negotiations via mediation, including the mediation efforts that eventually led to the Settlement.

41. Plaintiff understands and has accepted the obligations of being a class representative, and has adequately represented the Settlement Class by reviewing the Complaint, providing documents to Class Counsel, making himself available to discuss the facts of the litigation with Class Counsel, and reviewing the Agreement.

42. Class Counsel has effectively handled numerous consumer protection and complex class actions, including in the area of financial services, credit unions and banks, bank fees, and overdraft and non-sufficient funds fees specifically.

43. Class Counsel is not aware of other pending individual litigation against Atlantic Union involving "APPSN" Overdraft Fees.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18<sup>th</sup> day of August, 2021, at Washington, D.C.

/s/ Jeffrey D. Kalief  
Jeffrey D. Kalief





### **KALIEL GOLD PLLC**

Kaliel Gold PLLC was founded in 2017 and is a 100% contingency Plaintiff-side law firm. Our attorneys have decades of combined experience and have secured hundreds of millions of dollars for their clients. Our firm's practice focuses on representing consumers in class action litigation and specifically on cases in the consumer financial services sector. In the four years since our firm was founded, our firm has been appointed lead counsel or co-lead counsel in numerous class action and putative class action lawsuits in state and federal courts nationwide including most recently in *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.); *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.); *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1<sup>st</sup> Cir. Haw.); *Liggio v. Apple Federal Credit Union*, No. 18-cv-01059 (E.D. Va.); *Morris et al. v. Bank of America, N.A.*, No. 3:18-cv-00157-RJC-DSC (W.D.N.C.); *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cnty., Colo.); *Figueroa v. Capital One, N.A.*, Case No. 3:18-cv-00692-JM-BGS (S.D. Cal.); *White v. Members 1<sup>st</sup> Credit Union*, Case No. 1:19-cv-00556-JEJ (M.D. Pa.); *Plummer v. Centra Credit Union*, Case No. 03D01-1804-PL-001903 (Cnty. Of Bartholomew, Ind.); *Holt v. Community America Credit Union*, Case No. 4:19-cv-00629-FJG (W.D. Mo.); *Trinity Management v. Charles Puckett*, Case No. GCG-17-558960 (Super. Ct., San Francisco Cnty, Cal.); *Martin v. Le&N Federal Credit Union*, No. 19-CI-022873 (Jefferson Cir. Ct., Div. One); *Clark v. Hills Bank and Trust Company*, No. LACV080753 (Iowa Dist. Ct. Johnson Cnty.); *Morris v. Provident Credit Union*, Case No. CGC-19-581616 (Super. Ct., San Francisco Cnty., Cal.).

As shown in the biographies of our attorneys and the list of class counsel appointments, Kaliel Gold PLLC is well versed in class action litigation and zealously advocates for its clients. To learn more about Kaliel Gold PLLC, or any of the firm's attorneys, please visit [www.kalielgold.com](http://www.kalielgold.com).



**JEFFREY D. KALIEL**

Jeffrey Kaliel earned his law degree from Yale Law School in 2005. He graduated from Amherst College summa cum laude in 2000 with a degree in Political Science, and spent one year studying Philosophy at Cambridge University, England.

Over the last 10 years, Jeff has built substantial class action experience. He has received "Washington D.C. Rising Stars Super Lawyers 2015" recognition.

Jeff has been appointed lead Class Counsel in numerous nationwide and state-specific class actions. In those cases, Jeff has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damages models. Jeff has also successfully resolved numerous class actions by settlement, resulting in hundreds of millions of dollars in relief for millions of class members.

Currently Jeff is actively litigating several national class action cases, including actions against financial services entities and other entities involved in predatory lending and financial services targeting America's most vulnerable populations.

Jeff's class action successes extend beyond financial services litigation. He seeks to lead cases that serve the public interest. Jeff has worked with nonprofits such as the Humane Society, Compassion Over Killing, and the National Consumers League to fight for truth in the marketplace on food and animal products.

Jeff has over a decade of experience in high-stakes litigation. He was in the Honors Program at the Department of Homeland Security, where he worked on the Department's appellate litigation. Jeff also helped investigate the DHS response to Hurricane Katrina in preparation for a Congressional inquiry. Jeff also served as a Special Assistant US Attorney in the Southern District of California, prosecuting border-related crimes.

Jeff is a former Staff Sergeant in the Army, with Airborne and Mountain Warfare qualifications. He is a veteran of the second Iraq war, having served in Iraq in 2003.

Jeff is admitted to practice in California and Washington, DC, and in appellate and district courts across the country.

Jeff lives in Washington, D.C. with his wife, Debbie, and their three children.



**SOPHIA GOREN GOLD**

Sophia Goren Gold is a third-generation Plaintiff's lawyer. A *summa cum laude* graduate of Wake Forest University and the University of California, Berkeley, School of Law, Sophia has spent her entire career fighting for justice.

A fierce advocate for those in need, Sophia's practice centers around taking on financial institutions, insurance companies, and other large corporate interests. Sophia has participated in hundreds of individual and class cases in both state and federal courts across the country. Collectively, she has helped secure tens of millions of dollars in relief on behalf of the classes she represents.

In addition to providing monetary relief, Sophia's extensive litigation experience has resulted in real-world positive change. For example, she brought litigation which resulted in the elimination of the Tampon Tax in the State of Florida, and she was influential in changing the state of Delaware's Medicaid policy, resulting in greater access to life-saving medication.

Sophia is currently representing consumers in numerous cases involving the assessment of improper fees by banks and credit unions, such as overdraft fees, insufficient funds fees, and out of network ATM fees. She is also currently representing consumers who have been the victims of unfair and deceptive business practices.

Sophia is admitted to practice in California and Washington, D.C. When not working, Sophia enjoys spending time with her husband, daughter, and their goldendoodle.



**BRITTANY CASOLA**

Brittany Casola attended the University of Central Florida in Orlando and graduated in 2012 with a bachelor's degree in Political Science and a minor in Spanish. Brittany earned her Juris Doctorate from California Western School of Law in 2015 and graduated magna cum laude in the top 10% of her class.

Throughout the course of her law school career, she served as a judicial extern to the Honorable Anthony J. Battaglia for the United States District Court, Southern District of California and worked multiple semesters as a certified legal intern for the San Diego County District Attorney's Office. Brittany was awarded Academic Excellence Awards in law school for receiving the highest grade in Trial Practice, Health Law & Policy, and Community Property.

Before joining Kaliel Gold PLLC, Brittany worked as a judicial law clerk for the Honorable Anthony J. Battaglia and as an associate attorney for Carlson Lynch LLP, specializing in consumer complex litigation.



**AMANDA ROSENBERG**

Amanda Rosenberg graduated *cum laude* from the University of California, Hastings College of the Law in 2011 and the University of California, San Diego in 2008, where she earned departmental Honors with Highest Distinction in history.

Before joining Kaliel Gold PLLC, Amanda represented and advised small businesses and financial institutions in litigation matters including employment disputes, merchant disputes, credit and charge card disputes, wrongful foreclosures, and securities. She has successfully litigated cases in California, Illinois, and Michigan.

Amanda is an active volunteer in her community and has helped numerous individuals understand and navigate their rights in the workplace.

In law school, Amanda worked as an extern for the Honorable Judge Vaughn Walker in the United States District Court, Northern District of California. Amanda was awarded academic excellence awards for receiving the highest grades in Trial Advocacy and Litigating Class Action Employment.

When not working, Amanda loves exploring Michigan's outdoors with her husband, kids, and rescue dog.



### **CLASS COUNSEL APPOINTMENTS**

- *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.);
- *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.);
- *Figueroa v. Capital One, N.A.*, Case No. 3:18-cv-00692-JM-BGS (S.D. Cal.).
- *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1<sup>st</sup> Cir. Haw.);
- *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cnty., Colo.).
- *Liggio v. Apple Federal Credit Union*, Civil No. 18-cv-01059 (E.D. Va.);
- *Morris et al. v. Bank of America, N.A.*, Civil No. 3:18-cv-00157-RJC-DSC (W.D.N.C.);
- *White v. Members 1<sup>st</sup> Credit Union*, Case No. 1:19-cv-00556-JEJ (M.D. Pa.);
- *Plummer v. Centra Credit Union*, Case No. 03D01-1804-PL-001903 (Bartholomew Cnty., Ind.);
- *Holt v. Community America Credit Union*, Case No. 4:19-cv-00629-FJG (W.D. Mo.);
- *Trinity Management v. Charles Puckett*, Case No. GCG-17-558960 (Super. Ct., San Francisco, Cnty., Cal.);
- *Martin v. Le&N Federal Credit Union*. No. 19-CI-022873 (Jefferson Cir. Ct., Division One);
- *Clark v. Hills Bank and Trust Company*, No. LACV080753 (Iowa Dist. Ct. Johnson Cnty.);
- *Morris v. Provident Credit Union*, Case No. CGC-19-581616 (Super. Ct. San Francisco Cnty., Cal.).
- *Bodnar v. Bank of America, N.A.*, 5:14-cv-03224 (E.D. Pa.);
- *In re Higher One OneAccount Marketing and Sales Practice Litigation.*, No. 12-md-02407-VLB (D. Conn.).
- *Shannon Schulte, et al. v. Fifth Third Bank.*, No. 1:09-cv-06655 (N.D. Ill.);
- *Kelly Mathena v. Webster Bank*, No. 3:10-cv-01448 (D. Conn.);
- *Nick Allen, et al. v. UMB Bank, N.A., et al.*, No. 1016 Civ. 34791 (Cir. Ct. Jackson Cnty., Mo.);
- *Thomas Casto, et al. v. City National Bank, N.A.*, 10 Civ. 01089 (Cir. Ct. Kanawha Cnty., W. Va.);
- *Eaton v. Bank of Oklahoma, N.A., and BOK Financial Corporation, d/b/a Bank of Oklahoma, N.A.*, No. CJ-2010-5209 (Dist. Ct. for Tulsa Cnty., Okla.);
- *Lodley and Tehani Taulva, et al., v. Bank of Hawaii and Doe Defendants 1-50*, No. 11-1-0337-02 (Cir. Ct. of 1st Cir., Haw.);
- *Jessica Duval, et al. v. Citizens Financial Group, Inc., et al*, No. 1:10-cv-21080 (S.D. Fla.);
- *Mascaro, et al. v. TD Bank, Inc.*, No. 10-cv-21117 (S.D. Fla.);
- *Theresa Molina, et al., v. Intrust Bank, N.A.*, No. 10-cv-3686 (18th Judicial Dist., Dist. Ct. Sedgwick Cnty., Kan.);
- *Trombley v. National City Bank*, 1:10-cv-00232-JDB (D.D.C.); *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.);
- *Brown et al. v. Transurban USA, Inc. et al.*, No. 1:15-CV-00494 (E.D. Va.);
- *Grayson v. General Electric Co.*, No. 3:13-cv-01799 (D. Conn.);
- *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.).



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**For over sixty-five years**, Branstetter, Stranch & Jennings, PLLC has been known for the quality of its advocacy, and the integrity of its attorneys. The Firm enjoys a national reputation of prominence in the complex litigation arena for its work in class actions, shareholder derivative claims, securities, ERISA, labor and employment, and other complex cases, both at the trial and appellate levels.

The Firm has three offices providing a full range of legal services to its diverse clientele both regionally and nationwide. In addition to providing quality legal services, the firm is proud of the professional and civic leadership that its members have provided both locally and nationally. Our former Managing Partner, Jane Branstetter Stranch, was nominated by President Obama to the United States Court of Appeals for the Sixth Circuit, and now serves as judge on that court following her confirmation by the U.S. Senate. Branstetter, Stranch & Jennings, PLLC firm is listed in the Bar Register of Preeminent Lawyers, and was recently named among "Best Law Firms" by U.S. News & World Report for 2018, receiving the highest possible Nashville ranking as a Tier 1 in two practice areas.

**Statement of Practice:**

General Litigation Practice in State, Federal and Appellate Courts; Class Actions and Complex Litigation; Mass Tort; Antitrust Law; Securities Law; Shareholder Derivative Law; Wage & Hour Law; Consumer Protection; Labor and Employment Law; ERISA and Pension Law; Commercial Litigation; Utility Law;



Municipal Law; Personal Injury; Workers' Compensation; and, Social Security Claims.

## Members and Associates:

**Cecil D. Branstetter**, (Member Emeritus – Deceased May 7, 2014) born Morgan County, Tennessee; admitted to bar, 1949, Tennessee. **Education:** Lincoln Memorial University and George Washington University (B.A., 1946); Oxford University, England and Vanderbilt University (J.D., 1949). Order of the Coif; Delta Theta Phi. Member, Board of Editors, Vanderbilt Law Review, 1949. Member, Tennessee Legislature, 1951-1953. **Member:** Past Chairperson, Tennessee Disciplinary Board of Tennessee; Nashville Bar Association (President, Junior Section, 1952-1953) and American Bar Associations; Nashville and Tennessee Bar Foundations; Tennessee Association of Criminal Defense Lawyers, Tennessee Trial Lawyers; American Board of Trial Advocates; The Association of Trial Lawyers of America; Founder, Tennessee Environmental Council; Past President, Tennessee Conversation League; Recipient, John Tune Award, Nashville Bar Association. **Practice Areas:** Personal Injury; Public Utility Law; Regulated Industries; Municipal Law; Labor & Employment; Administrative Law; Civil Litigation; Criminal Law.

**James G. Stranch, III**, (Member) born Abbeville, South Carolina; admitted to bar, 1973, Tennessee; 1974, U.S. District Court, Middle District of Tennessee; U.S. Tax Court; 1980, U.S. Supreme Court; 1982, U.S. Court of Appeals, Sixth Circuit, 1986; Eight Circuit, 2011; Ninth Circuit, 2008; U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court, Western District of Tennessee; 2002, U.S. District Court, Colorado. **Education:** Dobbins-Bennett High School, Kingsport, Tennessee; University of Tennessee (B.S., 1969; J.D., 1973). Phi Delta Phi. **Member:** Tennessee State Ethics Commission (Chairman, 2011 – Present); Tennessee Appellate Court Nominating Committee (Secretary, 1985-1991); AFL-CIO Lawyer's Coordinating Advisory Committee (1980-present); Nashville Bar Association (1973 – Present); Tennessee Bar Association (Chairman, Labor Law Section, 1991-1992; member 1973-present) and American Bar Associations (1973-present); American and Tennessee Association for Justice (1974 – Present);. **Practice Areas:** Labor & Employment; Class Actions and Complex Litigation; Shareholder Derivative Law; Consumer Protection; ERISA; Securities Law; Civil Litigation; Personal Injury; Auto & Trucking; and Municipal Law.

**R. Jan Jennings**, (Member); admitted to bar, 1975, Tennessee and U.S. District Court, Eastern District of Tennessee; 1976, Georgia and U.S. Court of Appeals, Fifth Circuit; 1979, U.S. Court of Appeals, Sixth Circuit; 1981, U.S. Court of Appeals, Eleventh Circuit; 1984, U.S. Court of Appeals for the Federal Circuit and U.S. Supreme Court. **Education:** East Tennessee State University (B.S., 1964; M.B.A., 1966); University of Tennessee at Knoxville (J.D., 1974). Editor, Tennessee Law Review, 1973-1974. Member, Panel of Arbitrators, American Arbitration Association. **Member:** Tennessee Bar Association; State Bar of Georgia. **Practice Areas:** Litigation; ERISA; Labor; Personal Injury.

**J. Gerard Stranch, IV**, (Member) born Nashville, Tennessee; admitted to bar, 2003, Tennessee, U.S. District Court, Middle District of Tennessee; 2005, U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court for Western Tennessee; 2004 U.S. Court of Appeals, Sixth Circuit. **Education:** Emory University (B.A. 2000); Vanderbilt University Law School (J.D., 2003). Adjunct Professor of Law, Vanderbilt University Law School (2011 – Present). **Member:** Nashville and Tennessee Bar Associations; American and Tennessee Association for Justice (Governor), Class Action Trial Lawyers Association executive committee member, and AFL-CIO Lawyers Coordinating Committee; Top 40 Under 40 by the National Trial Lawyers Association. **Practice Areas:** Class Actions and Complex Litigation; Mass Torts; Securities Law; Labor & Employment; Consumer Protection; ERISA; Civil Litigation; Personal Injury and Wrongful Death.



**Joe P. Leniski, Jr.**, (Member), admitted to bar, 2003, Tennessee; 2004, U.S. District Court, Middle District of Tennessee; 2005, U.S. District Court, Eastern District of Tennessee; 2008, U.S. District Court, Western District of Tennessee; 2005, U.S. Court of Appeals for the First, Third, and Sixth Circuit; **Education:** University of Notre Dame (B.A., cum laude, 2000), Vanderbilt University Law School (J.D., 2003). Vanderbilt Bar Association, President; Trial Advocacy Association, member; Vanderbilt Juvenile Practice Clinic. **Member:** Nashville and Tennessee Bar Associations; American Bar Association; American Association of Justice; Public Justice; Harry Phillips American Inn of Court; Super Lawyers, 2012-2019; Class Action Trial Lawyers Top 25; Mass Tort Trial Lawyers Top 25; The National Trial Lawyers Top 100 Civil Plaintiff. **Practice Areas:** Civil Litigation; Class Actions and Complex Litigation; Antitrust Law; Shareholder Derivative Law; Labor & Employment; Consumer Protection; and ERISA.

**Michael G. Stewart**, (Member), admitted to bar, 1994, Tennessee. **Education:** University of Pennsylvania (B.A. 1987); University of Tennessee College of Law (J.D. 1994). **Member:** Nashville, Tennessee, and American Bar Associations; Member & House Caucus Leader, Tennessee House of Representatives (2008 – Present). **Practice Areas:** Class Actions and Complex Litigation; Securities; Consumer Protection.

**Michael J. Wall**, (Member) born Cincinnati, Ohio; admitted to bar, 2005, Tennessee; 2006, U.S. District Court, Middle District of Tennessee; 2008, U.S. District Court, Western District of Tennessee; 2009, U.S. District Court, Eastern District of Tennessee; 2006, U.S. Court of Appeals, 6th Circuit; 2010, U.S. Court of Appeals, 11th Circuit; 2011, U.S. Court of Appeals, 8th Circuit; 2009, U.S. Supreme Court. **Education:** Vanderbilt University (B.A., 2002); Vanderbilt University Law School (J.D., 2005). **Member:** Nashville, Tennessee, and American Bar Associations. **Practice Areas:** Civil Litigation; Labor & Employment; ERISA; Class Actions and Complex Litigation.

**Karla M. Campbell**, (Member), admitted to Tennessee Bar 2008, U.S. District Court, Middle District of Tennessee 2011, U.S. Court of Appeals, 6<sup>th</sup> Circuit 2011; **Education:** University of Virginia (B.S., 2002); Georgetown University Law Center (J.D., 2008); **Clerkship:** Hon. Jane B. Stranch, U.S. Court of Appeals, 6<sup>th</sup> Circuit (2010-2011); **Member:** Nashville, Tennessee, and American Bar Associations; **Director:** AFL-CIO Lawyers Coordinating Committee; **Practice Areas:** Civil Litigation; Labor & Employment; Complex Litigation; ERISA. Also noteworthy is that Ms. Campbell speaks fluent Spanish.

**Benjamin A. Gastel**, (Member), admitted to Georgia Bar 2007, Georgia Court of Appeals 2008, U.S. District Court, Northern District of Georgia 2008, Georgia Supreme Court 2010, Tennessee Bar 2010, Tennessee Supreme Court 2010, U.S. District Court, Middle District of Tennessee, 2011. **Education:** University of Dayton (B.S., 2004); Vanderbilt School of Law (J.D., 2007). **Member:** Nashville, Tennessee, Georgia, and American Bar Associations. **Practice Areas:** Class Actions and Complex Litigation; Civil Litigation; Consumer Securities and Fraud, Antitrust Litigation; and Labor & Employment.

**Tricia Herzfeld**, (Member), admitted to the Tennessee Bar (2007), Florida Bar (2001), and West Virginia Bar (2004), U.S. District Court Middle District of Tennessee (2008), U.S. District Court Eastern District of Tennessee (2010), U.S. District Court of Western Tennessee, 2010, U.S. District Court Southern District of West Virginia (2005), U.S. Court of Appeals, Sixth Circuit (2017), U.S. District Court, Fifth Circuit (2013), U.S. Immigration Courts (2015). **Education:** George Washington University (B.A.1998); George Washington University Law School (2001). **Member:** Super Lawyers (2012-2016), Davidson County Election Commission, (2012-present). **Practice Areas:** Complex Litigation, Personal Injury, and Civil Rights.

**Dave Suetholz**, (Member), admitted to the Kentucky Bar (2004), Indiana Bar (2005), U.S. District Court Eastern District of Kentucky (2004), U.S. District Court Western District of Kentucky (2004), U.S. District

Court of Southern District of Indiana, 2005; U.S. Court of Appeals, Sixth Circuit (2005), Supreme Court of the United States of America (2010) **Education:** Villanova University (B.A.2000); Notre Dame Law School (2003). **Practice Areas:** Labor Law.

**Anthony A. Orlandi**, (Member), admitted to Tennessee Bar 2015; Massachusetts Bar 2006; U.S. District Court, District of Massachusetts; U.S. District Courts, Eastern, Middle, and Western Districts of Tennessee, Eastern and Western Districts of Arkansas; U.S. Court of Appeals for the Sixth Circuit; **Education:** Brown University, B.A., Public Policy & American Institutions, Phi Beta Kappa; University of Virginia School of Law (J.D.), Earle K. Shawe Labor Relations Award **Member:** Member, American, Tennessee, and Nashville Bar Associations; Phi Beta Kappa, National Chapter and Rhode Island Chapter Board Member Law Association for Women, Nashville Chapter Board Member; Nashville Bar Association Diversity Committee; Nashville Bar Association Social Committee; Harry Phillips American Inn of Court; Tennessee Bar Association Leadership Law Class of 2017, Nashville Bar Foundation 2015 Young Leadership Forum **Experience:** Law Clerk, Hon. Aleta A. Trauger, U.S. District Court for the Middle District of Tenn. **Practice Areas:** Complex Litigation; Constitutional Rights Litigation; Personal Injury; Products Liability

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**Kathleen Grace Stranch**, (Associate), admitted to the Tennessee Bar 2014, U.S. District Court of Eastern Tennessee, U.S. District Court of Middle Tennessee; U. S. District Court of Western Tennessee. **Education:** Rhodes College (2010); University of Tennessee College of Law (2014); **Practice Areas:** Utility, Social Security, Probate, and Civil Litigation.

**Alyson Beridon**, (Associate), admitted to the Ohio bar, 2011, Kentucky bar, 2017, U.S. District Court, Southern District of Ohio, Western District of Kentucky and Eastern District of Kentucky. **Education:** Salmon P. Chase College of Law at Northern Kentucky University. **Experience:** Beridon Law Office (2011-2016), Kircher, Suetholz and Associates (2016-2018). **Practice Areas:** Labor and Employment.

**Pamela Newport**, (Associate), admitted to the Ohio bar, 2005, U.S. District Court, Southern District of Ohio, U.S. District Court, Northern District of Ohio. **Education:** University of Cincinnati (B.A., 2001); University of Cincinnati (M.A., 2004); University of Cincinnati (J.D. 2005). **Member:** AFL-CIO Lawyers Coordinating Committee, NAACP, Adjunct Professor, University of Cincinnati College of Law, 2009-2011, Cincinnati Interfaith Workers Center, Board Member, 2006-2008; **Experience:** Kircher, Suetholz and Associates (2017-2018), General Counsel, UFCW Local 75 (2008-2016), Manley Burke, LPA (2005-2008) **Practice Areas:** Labor and Employment.

**Clement L. Tsao**, (Associate), admitted to the Ohio bar - 2013, admitted to the Kentucky bar - 2014, U.S. District Court, Southern District of Ohio, U.S. District Court, Northern District of Ohio, U.S. District Court, Eastern District of Kentucky, U.S. Court of Federal Claims, U.S. Federal Circuit Court of Appeals; **Education:** Brown University (A.B., 2003); University of Cincinnati College of Law (J.D.. 2012); **Member:** American Bar Association - Labor and Employment Section, AFL-CIO Lawyers Coordinating Committee (Board Member, 2016-2018); **Experience:** Cook & Logothetis, LLC (associate, 2013-2019); **Practice Areas:** Labor and Employment.

**Marty Schubert**, (Associate), admitted to the New York bar, 2014, Tennessee bar, 2016, and U.S. District Court, Western District of Tennessee. **Education**: Georgetown University (B.S., 2006); Loyola Marymount University (M.A., 2008); Brooklyn Law School (J.D., 2013). **Experience**: Waller Lansden Dortch & Davis, LLP (2016-2019), Linklaters LLP (2013-2016) **Practice Areas**: Complex Civil Litigation.

**Jessica Myers**, (Of Counsel), admitted to Tennessee Bar, 2006, U.S. District Court, Middle District of Tennessee, 2007; U.S. District Court, Eastern District of Tennessee, 2014; U.S. District Court, Western District of Tennessee, 2015. **Education**: Barnard College, Columbia University (B.A., 2000); Harvard Law School (J.D., 2006). **Practice Areas**: Civil Litigation.

**Matthew McGraw**, (Associate), admitted to Tennessee Bar, 2013, and U.S. District Court for the Middle District of Tennessee, 2017. **Education**: The University of the South (B.A., 2010); University of Tennessee College of Law (J.D., 2013). **Experience**: Reid Leitner Law Group, PLLC (2016-2017), The Wooden Law Firm, PC (2014-2015). **Practice Areas**: Class Actions, Complex Litigation.

**Daniel Hull**, (Associate), admitted to Tennessee Bar, 2005, U.S. District Court for the Middle District of Tennessee, 2006, U.S. District Court for the Eastern District of Tennessee, 2011, U.S. District Court for the Western District of Tennessee, 2019, U.S. District Court for the Western District of Kentucky (*pro hac vice*), U.S. District Court for the District of Montana (*pro hac vice*). **Education**: Carson-Newman University (B.A., 1999); University of Tennessee (M.A., 2001); University of Tennessee College of Law (J.D., 2005). **Practice Areas**: Complex Civil Litigation, Class Action, including Mass Tort Litigation, Construction Law, Employment Law, Public Utility and Eminent Domain.

**Jack Smith**, (Associate), admitted to Tennessee Bar, 2018, U.S. District Court for the Middle District of Tennessee, 2019. **Education**: The Ohio State University (B.A., 2016); University of Tennessee College of Law (J.D., 2018). **Practice Areas**: Complex Litigation, Wage and Hour.

**Matthew Jacobs**, (Associate), admitted to Tennessee Bar, 2019. **Education**: Eastern Illinois University (2015); Vanderbilt University Law School (J.D., 2018). **Practice Areas**: Complex Litigation, Contract Law.

**Megan Killion**, (Associate), admitted to Tennessee Bar, 2008. **Education**: Belmont University (B.S., 2005); Vanderbilt University School of Law (J.D., 2008). **Experience**: Metropolitan Nashville Department of Law. **Practice Areas**: Antitrust, Class Actions and Complex Litigation, Personal Injury.

**Peter Jannace**, (Associate), admitted to Kentucky Bar, 2014, U.S. District Court Western District of Kentucky, 2014, U.S. Court of Appeals 6th Circuit, 2019. **Education**: University of Louisville (B.S., 2010); Hofstra University School of Law (J.D., 2013). **Experience**: Gordon Mize & Jannace LLP (2014-2020). **Practice Areas**: Administrative Law, Appellate Advocacy, Civil Rights, Class Actions and Complex Litigation, Constitutional Law, Labor and Employment.

**Janna Maples**, (Associate). **Education**: Auburn University (B.A., 2010); Vanderbilt University School of Law (J.D., 2013). **Practice Areas**: Complex Litigation, Mass Tort.

## Noteworthy Cases:

**Branstetter, Stranch & Jennings, PLLC** has served either as lead counsel or as an plaintiffs' executive committee member in a substantial number of class actions, shareholder derivative, securities, and other complex cases both in state and federal courts throughout the nation. The firm's efforts have produced significant monetary recovery and/or benefits for plaintiffs from many jurisdictions. While the firm has also defended numerous such actions, the following is a list of notable complex litigation cases that the firm is currently prosecuting, or has prosecuted to a successful conclusion:

### CONSUMER PROTECTION ACTIONS

- In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB (N.D. Cal.) (J. Breyer). The Firm serves on the Plaintiffs' Steering Committee in a coordinated action consisting of nationwide-cases of consumer and car dealerships alleging that Volkswagen AG and Volkswagen Group of America, and other defendants illegally installed so-called "defeat devices" in their vehicles which allowed the cars to pass emissions testing but enabled them to emit nearly forty-times the allowable pollution during normal driving conditions. In October, 2016, the court granted final approval to a settlement fund worth over \$10 billion to consumers with 2.0 liter diesel engines, and in May, 2017, the court granted final approval to a \$1.2 billion settlement for consumers with 3.0 liter diesel engines, and a \$357 million settlement with co-defendant Bosch.
- In re Anthem, Inc. Data Breach Litig., MDL 2617 LHK, (N.D. Cal. 2016). The firm served as counsel for Plaintiffs in a coordinated action consisting of nationwide-cases of consumer harmed by the 2015 criminal hacking of servers of Anthem, Inc. containing over 37.5 million records on approximately 78 million people receiving insurance and other coverage from Anthem's health plans. The case settled in 2017 for \$115 million dollars and has received final approval.
- McKenzie et al. v. Allconnect, Inc., 5:18-cv-00359 (E.D. Ky.) (J. Hood). The Firm served as class counsel in an action brought on behalf of over 1,800 current and former employees of Allconnect, Inc., whose sensitive information contained in the W-2 statements was disclosed to an unauthorized third party who sought the information through an e-mail phishing scheme. After surviving a motion to dismiss and conducting informal discovery, BSJ negotiated a settlement providing for direct cash payments to all class members, credit monitoring and identity theft protection plan at no cost, capped reimbursement of documented economic losses incurred per class member, notice costs, and other remedial measures. Settlement value was approximately \$2.2 million, resulting in one of the largest per capita recoveries in a W-2 phishing litigation and the only that counsel are aware of with direct cash payments to all class members.
- Horton v. Molina Healthcare, Inc., 4:17-CV-0266-CVE-JFJ (N.D. Okla.) (J. Eagan). The Firm served as co-lead counsel on behalf of individuals and entities in this national class action under the Telephone Consumer Protection Act (TCPA) regarding the sending of illegal junk facsimiles. Court granted final approval to a class settlement worth \$3.5 million.
- Davis Neurology, P.A. v. Dental Equities LLC, d/b/a Peer United et al., Case No. 4:16-cv-00371-BSM (E.D. Ark.) (J. Miller). The Firm served as lead counsel in this nationwide class action brought under the Telephone Consumer Protection Act (TCPA) regarding the sending of illegal junk facsimiles to individuals and business entities. Court finally approved a \$1.525 million class-wide settlement.



- Irika Skeete et al. v. RePublic Schools Nashville, No. 3:16-cv-0043 (M.D. Tenn.) (J. Crenshaw). The Firm was appointed class counsel on behalf of a certified class of individuals having claims under the Telephone Consumer Protection Act (TCPA) who received unsolicited spam texts to their cellular telephones. The Court approved a \$2.2 million settlement, resulting in claimants receiving over one-thousand dollars each in what is believed to be amongst the highest per-claimant TCPA recoveries.
- Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6 (W.D. Missouri). The firm served on Executive Committee in a nation-wide consumer class action composed of all owners or purchasers of a hot water heater manufactured by defendants with a defective dip tube. Settlement reached involved 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages caused by a defective hot water heater.
- Cox v. Shell Oil et al., Civ. No. 18844 (Weakley Chancery, Tennessee) (Judge Malon). Intervened in consumer class action composed of all persons throughout the United States, who owned or purchased defective polybutylene piping systems used in residential constructions or mobile homes. A global settlement was reached that resolved two competing lawsuits that was valued at \$1 billion.
- Davidson v. Bridgestone/Firestone, Inc and Ford Motor Co No. 00-C2298 (Davidson Circuit, Tennessee) (Soloman/Brothers). Lead counsel in a consumer action filed on behalf of a nationwide class of consumers against Bridgestone/Firestone, Inc and Ford Motor Co. that was certified as a nationwide class action concerning defective tires. Settlement was reached in conjunction with a companion case in Texas. Settlement was valued at \$34.4 million.
- Winsouth Credit Union v. Mapco Express Inc., and Phillips v. Mapco Express, Inc. Case Nos. 3:14-cv-1573 and 1710 (M.D. Tenn.) (J. Crenshaw). The Firm served as Liaison Counsel in consumer class action and financial institution class action stemming from the 2013 hacking of computer systems maintained by Mapco Express, Inc. The cases settled in 2017 for approximately \$2 million.

## MASS TORT ACTIONS

- In re: New England Compounding Pharmacy Product Liability Action, 1:13-md-02419 (D. Mass) (J. Zobel). Serving on the Plaintiffs' Steering Committee, Mr. Gerard Stranch represents hundreds of individuals injured as a result of exposure to tainted pharmaceuticals manufactured at New England Compounding Pharmacy in Framingham, Massachusetts. This litigation stems from the 2012 nationwide outbreak of fungal meningitis that, according to the Center for Disease Control, injured over 750 people nationwide and led to over 60 deaths. Mr. Stranch also serves as lead Tennessee Plaintiffs' Counsel in this case. Over 100 Tennesseans were injured as a result of the catastrophe and 17 Tennesseans lost their lives. Following NECC's bankruptcy, Mr. Stranch was instrumental in guiding settlement of claims against the bankrupt estate that resulted in the creation of a \$210 million tort trust. The litigation then turned to litigating the remaining claims against the doctors, clinics, and other healthcare providers that exposed their patients to tainted pharmaceuticals from NECC. The Court determined the first bellwether trials were to be against Tennessee-based defendants. All of the Tennessee cases were settled just prior to the first bellwether trial.

## ERISA AND RELATED CASES (401K, ESOP, TRUST LAW)

- Deschamps v. Bridgestone Americas, Inc. (M.D. Tenn.) (Sharp). Successfully recovered promised pension benefits for long-time Bridgestone employee via summary judgment, which was upheld by the Sixth Circuit Court of Appeals. Both courts published their opinions.
- Ewing et al. v. Neuhoﬀ, et al. (Law and Equity Court, Montgomery County, Tennessee) (Judge Boles). Lead counsel in a class action that resulted in a successful jury verdict against directors of Frosty Morn, Inc. for unlawful activities in running the corporation that directly impacted employee benefit plans. Employees received 100% of their losses.
- In re Providian Financial Corp. ERISA Litigation, No. C 01-5027 (N.D. C.A.) (Breyer). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of ERISA duties. Settlement provided \$8.6 million cash payment to the Plan for participants, lifted company stock sales restrictions in the Plan valued between \$3.66 million and \$5.85 million, and allowed Plan to recover in a parallel securities action.
- In re Montana Power ERISA Litigation, No. 4:02-0099 (D. Mont.) (Haddon). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Montana Power, Touch America and Northwestern Energy and against the Trustee, Northern Trust, for violation of duties owed under ERISA. Settlement was reached that provided a minimum recovery of \$4.9 million plus access to additional monies held by others.
- In re Nortel Networks Corp. "ERISA" Litigation, No. 3:03-MD-1537 (M.D. Tenn.) (Nixon). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Nortel Network Corp. for violation of duties owed under ERISA. Court approved a settlement that provided a minimum recovery of \$21.5 Million plus access to additional monies held by others.
- In re: Qwest Savings and Investment Plan ERISA Litigation, No. 02-RB-464, (D. Colo.) (Blackburn). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Qwest Communications and the Trustee, Bankers Trust/Deutsche Bank, for violation of duties owed under ERISA. A settlement was reached which provided a \$33 million cash payment from Qwest Communications to the Plan for participants, a \$4.5 million cash payment from Bankers Trust/Deutsche Bank to the Plan for participants, a \$20 million guarantee from Qwest Communications from a parallel securities action with the opportunity of more cash from the parallel securities action, and an undetermined amount of cash from a distribution through the U.S. Securities and Exchange Commission Fair Fund established pursuant to Section 308 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. §§7201 *et seq.*
- In re Global Crossing Ltd. ERISA Litigation, No. 02 Civ. 7453 (S.D. N.Y.) (Lynch). One of several counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Global Crossing for violation of duties owed under ERISA. Settlement reached that provided a \$79 million cash payment to the Plan for participants and allowed Plan to recover in parallel securities action.
- In re Xcel Energy, Inc. ERISA Litigation Civ. 02-2677 (D. Minn.) (Doty). Co-lead counsel in a 401k/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of duties owed under ERISA. Settlement reached that provided an \$8.6

million cash payment to the Plan for participants, lifted stock restrictions in the Plan with a value between \$38 million and \$94 million, and allowed the Plan to recover in parallel securities action.

## ANTITRUST CASES

- Dahl v. Bain Capital Partners, LLC, No. 07-cv-1238 (D. Mass) (J. Young). The Firm served on the Executive Committee in this Federal antitrust case challenging bid rigging and market allocation in the private equity/leveraged-buyout industry. The parties reached a \$590.5 million settlement approximately two months before trial, and the Court finally approved this settlement in 2015.
- Plumbers & Pipefitters Local 572 Health & Welfare Fund et al. v. Bristol-Myers Squibb Co., No. 00-C-2524, (Davidson Circuit, Tennessee) (Judge Shipley). Lead counsel in action against Bristol-Myers alleging violations of the Tennessee Consumer Protection Act and the Tennessee Trades Practice Act and other theories as a result of anti-competitive, unfair and deceptive acts and practices regarding Bristol-Myers' marketing and selling of the drug Taxol. A global settlement was reached in conjunction with a multi-state indirect companion case in the District of Columbia.
- Sherwood et al. v. Microsoft Corporation, No. 99-C-3562 (Davidson Circuit, Tennessee) (Judge Kurtz). Lead counsel in a consumer and indirect purchaser Tennessee class action against Microsoft Corporation alleging violation of the Tennessee Consumer Protection Act and the Tennessee Trades Act. Settlement was reached that was valued at \$64 million.
- Lankford v. Dow Chemical et al., No. 04-1517 (Davidson Circuit, Tennessee) (Judge Shipley). Lead counsel in a consumer and indirect purchaser class action filed on behalf of Tennessee purchasers of products containing neoprene against Dow Chemical Company, E.I. du Pont de Nemours and DuPont Dow Elastomers LLC alleging violation of the Tennessee Consumer Protection Act and the Tennessee Trades Act. A multi-state settlement was reached that was valued at \$4.2 million.
- In re: Wellbutrin XL Antitrust Litigation, No. 08-2433 (E.D. Penn.) (Judge McLaughlin). Branstetter, Stranch & Jennings served as Co-Lead counsel in an antitrust class action against pharmaceutical companies GlaxoSmithkline and Biovail on behalf of third-party payors alleging that defendants violated Tennessee, California, Florida, Wisconsin, and Nevada laws by colluding to illegally suppress a cheaper generic form of the blockbuster drug Wellbutrin XL from reaching the market. Through the efforts of the Firm and other co-lead counsel, plaintiffs were able to achieve certification of a class of indirect purchasers. Biovail reached a settlement and the remaining claims were resolved in GSK's favor.
- In re: Prograf Antitrust Litigation, No. 11621 (D. Mass) (J. Zobel). Serving in the role of Co-Lead Counsel, Branstetter, Stranch & Jennings represented a putative class of indirect purchaser plaintiffs in a nationwide antitrust action against Astellas Pharma, Inc., alleging that defendant illegally delayed entry of generic Prograf into the marketplace by filing a sham Citizen Petition with the Food and Drug Administration. Achieved partial class certification and withstood motions for summary judgment. The Court granted final approval in November, 2016 to a class-wide settlement award of \$13.25 million.
- In re: Skelaxin (Metaxalone) Antitrust Litigation, No. 1:12-cv-194 (E.D. Tenn.) (J. Collier). The Firm was appointed Lead Counsel in an antitrust class action on behalf of end-payors regarding monopoly practices which prevented the sale of generic Skelaxin, a muscle-relaxant prescription drug. The case against defendant Mutual Pharmaceuticals, Inc. was settled on a class basis for a sum total of \$9 million, and has been finally approved. The lawsuit against defendant King Pharmaceuticals, Inc. was

settled on a non-class basis on behalf of the named plaintiffs.

- In re: Lipitor Antitrust Litigation, No. 3:12-cv-2389 (D.N.J.) (J. Sheridan). The Firm serves on the Executive Committee representing a class of end-payors in multidistrict litigation accusing Pfizer of giving Ranbaxy the right to sell generic versions of its blockbuster Lipitor product abroad in exchange for Ranbaxy pulling a patent challenge that could have led to Pfizer losing its exclusivity in the U.S., which imposed supracompetitive prices on the end-payor class. The end-payors were originally dismissed by the district court in 2014, but were revived by the Third Circuit in August 2017. The case is currently in discovery phase.
- In re: Loestrin 24 FE Antitrust Litigation, No. 1:13-md-2472-S-PAS (D.R.I.) (J. Smith). The Firm serves on the Executive Committee of purchasers claiming that Warner Chilcott PLC signed a series of anti-competitive deals with Watson Pharmaceuticals Inc. and Lupin Pharmaceuticals Inc. that settled litigation over Loestrin and another oral contraceptive with a variety of early entry dates and exclusive sales rights. Though initially dismissed by the district court, the First Circuit revived the case in February 2016. The district court rejected the drugmakers' renewed dismissal efforts in August, 2017. End payors moved for class certification.
- In re: Columbia/HCA Healthcare Corporation Billing Practices Litigation, No. 3-98-MDL-1227 (M. D. Tenn.) (Higgins). The firm served as liaison counsel in a multi-district litigation brought on behalf of all third-party payers against Columbia Health Care Corporation/HCA Healthcare Corporation alleging over-billing for services. Settlement was reached on a cash payment, modifications in billing documents and admission practices.
- In re: Effexor Antitrust Litigation, No. 3:11-cv-5661 (D.N.J.) (J. Pisano). The Firm's client serves on the Executive Committee overseeing this end payor antitrust class action against defendants Wyeth Pharmaceuticals, manufacturer of antidepressant medication Effexor XR, and Teva Pharmaceuticals. This lawsuit alleges Defendant Wyeth unlawfully procured the patents underling Effexor XR, filed sham litigation against generic competitors, and then entered into anti-competitive settlement agreement with Teva in order to delay the arrival of generic forms of Effexor XR, causing plaintiffs to pay supracompetitive prices for Effexor XR, when they could have paid for far cheaper generics. The case is currently in the discovery phase.
- In re: Pharmaceutical Industry Average Wholesale Price Litig., MDL No. 1456, No. 01-cv-12257-PBS (D. Mass). Counsel in a consolidated nationwide class action against pharmaceutical manufacturers, alleging that defendants published fictional Average Wholesale Prices which artificially inflated the prescription drug prices charged to the Firm's clients and other third-party payors throughout the nation. The case was ultimately settled with various defendants for approximately \$350 million.
- In re: Metoprolol Succinate End-Payor Antitrust Litigation, No. 06-71 (GMS) (D. Del.) (Judge Sleet). Counsel in an antitrust class action on behalf of end-payors against manufacturers of the brand-name drug Toprol XL. The case was resolved through a settlement totaling \$11 million.
- Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company et al. (Doryx Indirect Purchaser Antitrust Action), No. 2:12-cv-03824 (E.D. Penn.) (J. Diamond). The Firm served as counsel in an antitrust class action on behalf of indirect purchasers regarding antitrust conduct committed by the manufacturer of brand drug Doryx. The case was settled on a class basis for \$8 million.



## SECURITIES AND SHAREHOLDER DERIVATIVE CASES

- In re: Omnivision Technologies, Inc. Securities Litigation, Civil No. 5:11-cv-05235 (N.D. Cal.). Co-Lead counsel in securities litigation alleging material misstatements in communications with investors related to Omnivision's supplier contract with Apple, Inc. The case was ultimately settled on a class basis for \$12.5 million, and was formally approved in 2015.
- Arlow, et al., v. Miller Energy Resources, Inc., Civil No. 3:11-CV-386 (E.D. Tenn.) (Judge Varland). Liason counsel in securities litigation alleging fraudulent accounting practices that overvalued assets and inflated stock prices. The case was ultimately settled and approved for \$2.9 million.
- In re: Regions Morgan Keegan Securities, Derivative & ERISA Litigation, Closed-End Fund Litigation, Civil No. 07-cv-02830 (W.D. Tenn.) (Judge Mays). Liason counsel for lead plaintiffs in securities litigation alleging fraud in the marketing and selling of corporate bonds and preferred stocks by failing to disclose investments in asset backed securities and mortgage-backed securities. The parties settled the case for \$62 million.
- In re: King Pharmaceuticals, Inc. Derivative Litigation, Civil. No. B0019077 (M) (Sullivan Chancery, Tennessee) (Judge McLellan). Lead counsel in a shareholder derivative action against the Board of Directors and certain officers at King Pharmaceuticals alleging various breaches of fiduciary duty, abuse of control, unjust enrichment and waste of corporate assets. The parties settled the case for substantial and material revisions to the Company's corporate governance practices.
- Carolinas Electrical Workers Retirement Fund v. Kramer et al., Civ. No. H-01-1176 (S.D. TX). Co-lead counsel in a shareholder derivative suit brought on behalf of American General Corporation alleging that its directors breached fiduciary duties in connection with a purposed merger with Prudential Insurance Company. The case was successfully resolved when the merger was cancelled.
- Holle v. Prison Realty, Inc., Case No. 99-1719-III, (Davidson County Chancery) (Chancellor Lyle). Shareholder class action on behalf of shareholders of Prison Realty Trust against its board of directors for breaches of fiduciary duties and self-dealings. Settlement was reached in conjunction with a global settlement of a securities case in federal court.
- Brand et al. v. Welch et al., Case No. 00C-3066 (Davidson County Circuit) (Judge Gayden). Counsel in a shareholder action alleging breaches of fiduciary duties in connection with the merger between Quorum Corporation and Triad. A settlement was reached in which shareholders received greater value for their stock than offered in the original merger.
- Dollar General Derivative Litigation (Dixon et al v. Turner, et al), Case No. 01C-1322 (Davidson County Circuit, Tennessee) (Judge Shipley). Lead counsel in a shareholder derivative action against directors of Dollar General Corporation alleging breaches of fiduciary duties, waste of corporate assets, unjust enrichment, and gross mismanagement. Settlement of the case included \$31.5 million cash payment to the corporation and significant corporate governance changes. The settlement is the largest derivative settlement in Tennessee history.
- Benkler v. Miller et al., Case No. 00C-2630 (Davidson County, Tennessee) (Judge Soloman).

Counsel in a shareholder derivative action against directors of Sirrom Capital Corporation alleging breaches of fiduciary duties in connection with merger between Sirrom Capital Corporation and Finova Financial. A global settlement was reached in conjunction with securities cases that were filed or transferred to Arizona.

- Central Laborers' Pension Fund v. Chellegren, Civ. No. 02-CI-02174 (Kenton Circuit, Kentucky). Settlement in a shareholder derivative action against the Board of Directors and certain officers at Ashland, Inc. relating to accounting practices which harmed the company. The settlement resulted with a cash payment and significant corporate governance changes.
- In re: Clayton Homes Derivative Litigation, Case No. E-19723 (Blount Circuit, Tennessee) (Young). Lead counsel in a shareholder derivative action originally against the Board of Directors and certain officers at Clayton Homes for breaches of fiduciary duties and corporate waste. During the litigation, Clayton Homes was purchased by Berkshire Hathaway. Settlement was reached with shareholders obtaining additional money for their shares of Clayton Homes in the purchase
- National Commerce Financial Shareholder Litigation, CT-002672-04 (Shelby Circuit, Tennessee). Counsel in a shareholder action contesting the value of National Commerce stock in its merger with SunTrust. Settlement was reached.
- Accredo Health Derivative Litigation, Case No. CT-002203-03 (Shelby Circuit, Tennessee) (Judge Fields). Co-lead counsel in a shareholder derivative action against the Board of Directors and certain officers at Accredo Health alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. Accredo merged during the litigation. Settlement was reached.
- Provident Financial Derivative Litigation, No. C-1-08-168 (S.D. Ohio). Counsel in a shareholder derivative action against the Board of Directors and certain officers at Provident Financial alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. Settlement was reached.
- In re: Worldcom Securities Litigation, No. 03-27211 (Davidson Chancery, Tennessee) (Judge McCoy). Co-lead counsel in a securities action by the Tennessee Consolidated Retirement System against the banks that underwrote Worldcom bonds during a period of time in which Worldcom was manipulating its accounting. Settlement was reached that provided a recovery to the retirement system of \$7 million.
- In re: UnumProvident Derivative Litigation, No. 1:02CV-386 (E.D. Tenn.) (Judge Collier). Co-lead counsel in a shareholder derivative action against the Board of Directors and certain officers of UnumProvident alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. A settlement of this case that involves a payment of \$30 million to the company plus significant corporate governance changes has been approved by the court.
- In re: AFC Enterprises Derivative Litigation, Civil No. 1:03-CV-2095TWT (N.D. Ga.) (Thrasher). One of three lead counsel in a shareholder derivative action against the Board of Directors and certain officers at AFC Enterprises alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets resulting from improper accounting practices and insider trading. Settlement was reached which provided for corporate governance changes.
- In re: Dynegy, Inc., Derivative Litigation, Civil No. 2002-25250 (Harris County, Texas) (Jamison). Co-

lead counsel in a shareholder derivative action against the Board of Directors and certain officers at Dynegy, Inc. alleging various breaches of fiduciary duty, abuse of control, and waste of corporate assets. Settlement was reached with significant corporate changes and resignation of key officeholders.

- In re: Direct General Corporation Derivative Litigation, Civil No. 3:05-CV-00158 (M.D. Tenn.)(Campbell). Co-lead counsel in litigation against the Board of Directors and certain officers of Direct General Corporation alleging various breaches of fiduciary duty resulting from financial manipulations, insider selling, and misconduct in connection with a proposed private-equity sale of the company. The parties ultimately reached a settlement for additional material disclosures in the proxy materials and a substantial payment to shareholders if the company is sold by the acquiring entity for more than the merger consideration within nine months of the consummation of the private-equity sale.
- In re: Caremark RX, Inc. Stock Option Litigation, Civil No. 06-C-1329 (Davidson County, Tennessee). Co-lead counsel in litigation against the board of directors of Caremark RX, Inc. alleging breach of fiduciary duties resulting from the Board's attempt to merge the company with CVS Corporation, Inc. and extinguish their liability for improperly backdating stock option grants to certain Board members and high-ranking officers at the Company. A settlement was reached that provided for corporate governance reforms concerning the granting of options, additional disclosures to voting shareholders prior to the merger vote, and recognition that the case indirectly resulted in additional compensation to shareholders.
- In re: HCA Inc. Shareholder Litigation, Civil No. 3:05-CV-0968 (M.D. Tenn.) (J. Haynes). Co-lead counsel representing shareholders of Hospital Corporation of America (HCA) Inc., alleging that the company's board of directors breached their fiduciary duties by approving a private-equity buyout of the company at an unfair price via an unfair process. A settlement was reached with provided for enhanced appraisal rights for shareholders, reduced termination fee, a "majority of the minority" provision, and additional material disclosures in the proxy materials.
- Fisk v. Alfa Corporation, Civil No. 03-CV-2007-900485.00 (Montgomery County, Alabama). Co-lead counsel representing shareholders of Alfa Corporation, alleging that the company's board of directors breached their fiduciary duties by engaging in self-dealing and approving a sale of the company to private interests for grossly inadequate consideration. A settlement was reached that resulted in an approximate additional \$161 million being paid to the shareholder class.

## **WAGE & HOUR AND WARN ACT CLAIMS**

- Drummond et al. v. C.E.C. Electrical Contractors, Inc., 98-1811-III (Davidson Chancery, Tennessee) (Chancellor Lyle). Lead counsel in a class action settlement by employees against their employer for wages and benefits due from a school construction contract between their employer and the Metropolitan-Davidson County Board of Education. Settlement reached in which employees received 100% of their wages and benefits.
- Kizer v. Summit Partners, Case No. 1:1-CV-38 (E.D. Tenn.) Counsel in class actions on behalf of employees of a closed Summit Partners facility located in Chattanooga, Tennessee in 2011. Case was successfully settled for \$275,000.
- Owens v. Carrier Corp., Case No. 2:08-2331-SHM P (W.D. Tenn.) Lead Counsel in class action on

behalf of former Carrier Corp. employees at plant in Collierville, Tennessee that closed in 2008. Case was successfully settled on behalf of former employees for \$2.1 million after Lead Counsel successfully obtained class certification over plaintiffs' WARN Act claims.

- In re Sofa Express Inc., Case No. 07-924 (Bank. M.D. Tenn.) Lead counsel in class action on behalf of former Sofa Express, Inc. employees at a distribution center and headquarters in Groveport, Ohio in 2007. Case was successfully settled on behalf of former employees for \$398,000.
- Robertson et. al v. DSE Inc., Case No. 8:13-cv-1931-T-AEP (M.D. Fla.). Lead counsel in class action on behalf of former DSE Inc. employees at manufacturing facilities in in Florida and South Carolina. Case successfully settled on behalf of former employees for over \$1 million.
- for over \$1 million.

# COHEN & MALAD, LLP

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Complex Litigation  
Resume

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## Introduction

Cohen & Malad, LLP is a litigation firm founded in 1968 by a former Indiana Attorney General, a former United States Attorney and three other distinguished lawyers. With 25 experienced attorneys, we litigate cases across multiple practice areas including: class action, mass torts and individual personal injuries, business litigation, family law, as well as commercial litigation and appeals.

Cohen & Malad, LLP enjoys a reputation as one of Indiana's leading class action law firms. Over the last 50 years, the firm has served as class counsel in numerous local, statewide, multi-state, nationwide, and even international class actions. We have also served in leadership positions in numerous multidistrict litigation matters. Our personal injury and medical malpractice trial lawyers have handled high profile cases against medical providers who subjected hundreds of their patients to unnecessary procedures, sometimes leading to deaths.

## Significant Class Actions

*Lead Counsel, Co-lead Counsel, or Executive Committee*

- ❖ *In re Holocaust Victim Assets Litigation*; Settlement of \$1.25 billion for claims relating to conversion of bank accounts and property of victims of the Holocaust during the Nazi era.
- ❖ *Raab v. R. Scott Waddell, in his official capacity as Commissioner of The Indiana Bureau of Motor Vehicles et al.*, Settlements (including settlement after trial and judgment) of approximately \$100 million in overcharges for motor vehicle and license fees.
- ❖ *In re Ready-Mixed Concrete Antitrust Litigation*; Settlements of over \$60 million for price fixing claims.
- ❖ *In re Iowa Ready-Mix Concrete Antitrust Litigation*; Settlement of over \$18 million for price fixing claims.
- ❖ *Moss v. Mary Beth Bonaventura, in her official capacity as Director of the Department of Child Services et al.* Settlement for underpayment of per diem subsidies owed to families who adopted special needs children out of foster care.
- ❖ *Bank Fee Litigation*. Litigation of hundreds of lawsuits against financial institutions for improper fee assessment and achieving dozens of settlements.

## Significant Mass Tort Litigation

*Leadership positions in federal multidistrict litigations and state court consolidations*

- ❖ *Gilead Tenofovir Cases, JCCP No. 5043, Superior Court for the County of San Francisco, California*. Cohen & Malad, LLP is currently representing patients against Gilead Sciences who were prescribed its TDF-based drugs to treat HIV, for pre-exposure prophylaxis (PrEP) to mitigate HIV risk, or to treat Hepatitis, and suffered serious kidney and bone injuries.



- ❖ *In Re: Zofran (Ondansetron) Products Liability Litigation.* Litigation on behalf of women who took Zofran while pregnant and gave birth to a baby who suffered from a serious birth defect. Litigation is currently pending.
- ❖ *In re: Fresenius Granuflo/Naturalyte Dialysate Products.* Litigation on behalf of dialysis patients alleging Fresenius' dialysis products caused cardiac injuries and death. \$250 million global settlement.
- ❖ *Pain Pump Device Litigation.* Cohen & Malad, LLP served in a National Coordinated Counsel role in litigation against pain pump manufacturers who marketed pain pumps to orthopedic surgeons for continuous intra-articular uses, despite the fact that intra-articular placement of the pain pump catheters was not approved by the FDA. The use of pain pumps in the joint space resulted in deterioration of cartilage, severe pain, loss of mobility or decreased range of motion and use of shoulder.
- ❖ *In Re: Prempro Products Liability Litigation.* Litigation on behalf of women who took the hormone replacement therapy drug Prempro manufactured by Wyeth and suffered strokes, heart attacks, endometrial tumors or breast cancers. Global settlement for more than \$890 million to settle roughly 2,200 claims.

### **Significant Mass Medical Malpractice Actions**

Co-Lead counsel for mass litigation

- ❖ *Mass tort medical malpractice cases involving over 280 claimants against an ENT physician settled for more than \$59 million*
- ❖ *Mass tort medical malpractice cases involving more than 260 claimants against a Northwest Indiana cardiology group settled for more than \$67 million*

### **Our Attorneys**



Irwin B. Levin, Managing Partner

Irwin joined Cohen & Malad, LLP in 1978 and concentrates his practice in the areas of class action, mass torts and commercial litigation. Irwin served on the Executive Committee in litigation against Swiss Banks on behalf of Holocaust victims around the world which culminated in an historic \$1.25 billion settlement. He has also served as lead counsel in class action cases around the country since 1983 including two class action cases against the Indiana Bureau of Motor Vehicles, which settled for nearly \$100 million, and was Co-Lead Counsel in two major antitrust cases against the concrete industry. Those cases settled for over \$75 million. Irwin has also served in leadership in various MDL and mass tort cases such as Pain Pump and Hormone Therapy litigation. Irwin currently is counsel for dozens of Indiana cities and counties in litigation against companies responsible for the opioid epidemic.



#### David J. Cutshaw

David's practice includes both class action and mass medical malpractice litigation. He served as co-lead counsel to successfully negotiate over \$59 million in settlements for more than 280 plaintiffs against former ENT surgeon Mark Weinberger who performed unnecessary sinus surgeries, negligent surgeries, and abandoned his patients. Weinberger was sentenced to seven years in jail for health care fraud. David acted as co-lead counsel in 263 claims against a Northwest Indiana cardiology group alleged to have unnecessarily implanted pacemakers and defibrillators and performed unnecessary cardiac vessel stenting. Those claims were recently settled for over \$67 million. He has also tried numerous medical malpractice jury trials as first chair.



#### Gregory L. Laker

Greg is the chair of the personal injury practice group and oversees the firm's dangerous drug and defective medical device litigation team. Greg and his team have held leadership positions in several multidistrict litigations including In re: Prem Pro Products Liability, Pain Pump Device Litigation, In re: Consolidated Fresenius Cases (Granuflo), In re: Testosterone Replacement Therapy Products Liability, and others. Greg also oversees the firm's sexual abuse litigation team and litigates cases involving molestation committed by perpetrators in institutional care facilities, sports and organizational groups, churches, schools, and doctor or medical offices.

#### Richard E. Shevitz

Richard is the chair of the class action practice group and handles a wide variety of class action lawsuits, including claims against insurance companies, manufacturers, and governmental entities. He led the trial court proceedings and handled the appeal of a class action on behalf of drivers who had been overcharged for fuel prices by a publicly held trucking company, which resulted in a judgment of approximately \$5 million which was upheld on appeal. He also played a key role in the historic class action litigation bringing Holocaust-era claims against Swiss banks, which resolved for \$1.25 billion, as well as the prosecution of Holocaust-related claims against leading German industrial enterprises, which were resolved through a \$5 billion fund.





Lynn A. Toops

Lynn is a partner in the class action group and focuses her practice on high-stakes consumer protection litigation. Lynn and her team are currently litigating hundreds of class actions against financial institutions across the country for the improper assessment of various fees. In dozens of bank fee cases, Lynn and her team have obtained tens of millions in settlements on behalf of consumers. Lynn is also a nationwide leader in data breach litigation and is currently litigating and settling dozens of those cases on behalf of consumers. Lynn also represents cities and counties across Indiana that are battling the opioid prescription epidemic via litigation against manufacturers and distributors of prescription opioids. Lynn also served in a leading role in litigation against the state of Indiana for failure to pay promised adoption subsidy payments to families who adopted special needs children out of the state's foster care program.

Arend J. Abel

Arend's practice includes complex litigation and appeals. His clients range from governmental entities to businesses of all sizes, from Fortune 500 companies to sole proprietors. His legal career includes work for former Indiana attorney general Pamela Carter, for whom he served as special counsel. In that role, Arend briefed and argued two cases on the merits before the United States Supreme Court. He has also briefed and argued numerous cases before the Indiana State Supreme Court and State and Federal Trial and Appellate Courts. Arend supports the class action practice group via briefing on complex issues at the trial and appellate court level.



Scott D. Gilchrist

Scott is a class action attorney and concentrates his practice on antitrust, securities fraud, and consumer protection matters. Scott was a principal attorney in two antitrust cases against suppliers of ready-mixed concrete on behalf of small businesses, farmers and individuals. In re: Ready Mixed Concrete Antitrust Litigation, which settled for nearly \$60 million and In re: Iowa Ready Mix Concrete Antitrust Litigation, which settled for more than \$18 million.

#### Vess A. Miller

Vess is a class action attorney and focuses his practice on consumer protection matters. He uncovered hundreds of illegal charges made by the Indiana BMV and gave closing arguments at trial. After a ruling for drivers, that case settled for over \$62 million in refunds. Vess has also successfully litigated predatory lending claims against payday lenders that charged interest rates exceeding 1,000% APR. He defeated arbitration clauses that would have left consumer with no recovery, and successfully defended the wins at the Indiana Court of Appeals, the Indiana Supreme Court, and ultimately the United States Supreme Court.



#### Gabriel A. Hawkins

Gabriel is a class action and complex litigation attorney. He is an integral part of the firm's mass medical malpractice litigation team. He helped represent over 280 plaintiffs in lawsuits against former ENT surgeon Mark Weinberger who performed unnecessary sinus surgeries, negligent surgeries, and abandoned his patients. Weinberger was sentenced to seven years in jail for health care fraud. Gabriel's work contributed to the successful \$59 million

global settlement for these plaintiffs.

#### Lisa M. La Fornara

Lisa handles complex civil litigation, including class and representative actions, with a focus on consumer protection, financial services, and data security matters. Lisa has actively litigated hundreds of actions against financial institutions and has helped consumers recover tens of millions of dollars in improperly collected fee revenue. Lisa has helped achieve leading settlements in actions against companies that failed to protect their customers' most sensitive data, providing meaningful equitable and financial relief for victims who experienced or are likely to experience identity theft and fraud. Lisa has also uncovered and obtained refunds for consumers who were systematically underpaid by their insurers following the total loss of their vehicles and has represented whistleblowers in *qui tam* and False Claims Act cases involving fraud against the government.





Tyler B. Ewigleben

Tyler focuses his practice on consumer protection litigation on both a local and national scale. He is an advocate for consumers, businesses, and municipalities who have been harmed or victimized by an unfair practice, policy, or event that has also affected hundreds or sometimes thousands of other individuals. Tyler is currently litigating hundreds of class actions against financial institutions across the country for the improper assessment of various fees. He has played a critical role in obtaining tens of millions of dollars in settlements on behalf of consumers through his mastery of case initiation, managing complex discovery, and briefing complex legal issues. Tyler also represents consumers and businesses in data breach litigation across the country, with dozens of cases currently being litigated and settled.

Natalie A. Lyons

Natalie Lyons focuses on complex and class action matters. Over her career, she has represented consumer and civil rights plaintiffs in federal and state class actions around the country—including two federal civil rights trials that resulted in merits wins for plaintiffs. She has litigated against the federal Departments of Homeland Security and Education, state correctional agencies, and an array of commercial defendants. She is presently litigating complicated class actions in state and federal courts under consumer protection laws, the Telephone Consumer Protection Act and state contract and fraud laws.



Prior to joining Cohen & Malad, LLP, Natalie advocated on behalf of marginalized communities in litigation, direct representation and policy advocacy at the Southern Poverty Law Center (Montgomery, AL), Housing & Economic Rights Advocates (Oakland, CA) and Equal Rights Advocates (San Francisco, CA). In her role as an advocate for racial and social justice, she has appeared on panels; authored reports, op-eds and white papers; and testified on behalf of legislation. Here in Indiana, she served on the 2017 Spirit & Place Festival panel: Liberty & Justice for All?

*\*Natalie has submitted her application to the Indiana State Bar for licensure. Her application is presently in review.*



April F. Williams Shaw

April handles complex litigation matters including class action and business litigation. She is part of the opioid litigation team representing Indiana cities and counties in lawsuits against manufacturers and distributors of prescription opioids to combat the opioid prescription epidemic.



Edward 'Ned' B. Mulligan V

Ned handles product liability matters in the firm's dangerous pharmaceutical drug and defective medical device practice group. He has served in mass tort leadership roles on several multidistrict litigations including, *In re: Testosterone Replacement Therapy Products Liability Litigation*, and *In re: Consolidated Fresenius Cases (Granuflo)*. Ned is a named member of the Plaintiff Steering Committee for *In re: Zofran (Ondansetron) Products Liability Litigation*. Ned has also written articles regarding mass tort litigation for Trial Magazine.

Jonathon A. Knoll

Jon is a product liability attorney in the firm's dangerous pharmaceutical drug and defective medical device practice group. He has served in mass tort leadership roles for Biomet Metal on Metal Hip Replacement System Litigation in Indiana state court, *Gilead Tenofovir Cases*, JCCP No. 5043, as well as the multidistrict litigation *In re: Consolidated Fresenius Cases (Granuflo)*. Jon speaks nationally on various topics related to mass tort litigation and has also written articles regarding mass tort litigation for Trial Magazine.



Laura C. Jeffs

Laura is a class action and product liability attorney. Her work includes class action privacy claims involving data breaches and consumer protection claims. Laura represents people who have been injured by dangerous pharmaceutical and defective medical devices in litigation involving pain pump devices, hormone replacement therapy, transvaginal mesh implants, tainted steroid injections, talcum powder ovarian cancer claims, and tenofovir drug litigation.

## Antitrust Cases

- ***In re Bromine Antitrust Litigation***, U.S. District Court, Southern District of Indiana.  
Liaison Counsel for the class in price-fixing issue. Settlement valued at \$9.175 million.
- ***In re Ready-Mixed Concrete Antitrust Litigation***, U.S. District Court, Southern District of Indiana.  
Co-Lead Counsel in a consolidated class action alleging a price-fixing conspiracy among all of the major Ready-Mixed Concrete suppliers in the Indianapolis area. The total settlements provided for a recovery of \$60 million, which allowed for a net distribution to class members of approximately 100% of their actual damages.
- ***In re Iowa Ready-Mix Concrete Antitrust Litigation***, U.S. District Court, District of Iowa.  
Co-lead counsel in class action alleging a price-fixing conspiracy among major suppliers of Ready-Mixed Concrete in northwest Iowa and the surrounding states. Settlements totaled \$18.5 million, which allowed for a net distribution to class members of approximately 100% of their actual damages.

## Consumer Protection Cases

- ***Raab v. R. Scott Waddell, in his official capacity as Commissioner of The Indiana Bureau of Motor Vehicles et al., and Raab v. Kent W. Abernathy, in his official capacity as Commissioner of The Indiana Bureau of Motor Vehicles et al.***, Marion County Indiana, Superior Court.  
Actions on behalf of Indiana drivers who had been systematically overcharged by the Indiana Bureau of Motor Vehicles for driver's licenses, registrations, and other fees. Achieved a combined total \$100 million recovery providing either credits or refund checks to over 4 million drivers in amounts that equaled the agreed overcharge amounts.
- ***Moss v. Mary Beth Bonaventura, in her official capacity as Director of The Indiana Department of Child Services, et al.***, LaPorte County Indiana, Superior Court.  
Action on behalf of Indiana families that adopted special needs children from out of DCS foster care and who were denied an adoption subsidy payment. Achieved settlement over \$15 million providing checks to benefit over 1,880 special needs children, with the average settlement check near \$5,000 and a substantial number exceeding \$10,000.
- ***Coleman v. Sentry Insurance***, United States District Court, Southern District of Illinois.  
Class action on behalf of insured for failure to honor premium discounted features of automobile insurance policy; Settled for \$5.7 million cash fund, with direct payments to class members averaging over \$550.

- ***Econo-Med Pharmacy v. Roche***, United States District Court for the Southern District of Indiana.  
\$17 million common fund recovery in TCPA class action.
- ***Plummer v. Nicor Energy Services Company***, U.S. District Court, Southern District of Indiana.  
Class counsel in multistate class action on behalf of utility customers for deceptive charges on utility bills. Resolved for \$12 million cash settlement.
- ***Price v. BP Products North America Inc.***, U.S. District Court, Northern District of Illinois.  
Class counsel in multi-state class action on behalf of motorists that purchased contaminated gasoline recalled by BP. Achieved settlement of \$7 million.
- ***Wilmoth et al. v. Celadon Trucking Services***, Marion County Indiana, Superior Court.  
Appointed Class Counsel and obtained judgment, which was upheld on appeal, for approximately \$5 million in favor of nationwide class of long-distance drivers who had compensation improperly withheld by Celadon from fuel purchases.
- ***Means v. River Valley Financial Bank, et al.***, Marion County Indiana, Superior Court.  
Action involving prepaid burial goods and services in Madison, Indiana. Cemetery owners and banks who served as the trustees for the prepaid burial funds violated the Indiana Pre-Need Act and other legal duties, which resulted in insufficient funds to provide class members' burial goods and services at death. Settlements valued at \$4 million were achieved to ensure that thousands of class members' final wishes will be honored.
- ***Meadows v. Sandpoint Capital, LLC***, and ***Edwards v. Apex 1 Processing, Inc.***, Marion County Indiana, Circuit Court.  
Class actions brought against internet-based payday lenders. Settlement provided reimbursement for fees and expenses that exceeded amounts permitted by the Indiana payday loan act.
- ***Edwards v. Geneva-Roth Capital, Inc.***, Marion County Indiana, Circuit Court. Class action brought against internet-based payday lenders. Achieved settlement over \$1 million providing checks for over 6,000 individuals.
- ***Colon v. Trinity Homes, LLC and Beazer Homes Investment Corp.***, Hamilton County Indiana, Superior Court.  
Class counsel in statewide settlement providing for remediation of mold and moisture problems in over 2,000 homes. Settlement valued at over \$30 million.

- ***Whiteman v. Time Warner Entertainment Company, L.P.***, Marion County, Indiana, Superior Court.  
Successfully appealed to the Indiana Supreme Court challenging the application of the voluntary payment doctrine for class of cable subscribers. Following this victory, Cohen & Malad, LLP negotiated a multi-million-dollar settlement for class members.
- ***Hecht v. Comcast of Indianapolis***, Marion County Indiana, Circuit Court.  
Represented a class of Comcast cable subscribers challenging arbitrarily determined late fees as unlawful liquidated damages. Obtained a multi-million-dollar settlement on the eve of trial.
- ***Littell et al. v. Tele-Communications, Inc. (AT&T) et al.***, Morgan County, Indiana, Superior Court. Lead counsel in nationwide class action challenging late fee charges imposed by cable television companies. The total value of the nationwide settlement exceeded \$106 million.
- ***Bridgestone/Firestone, Inc., ATX, ATX II and Wilderness Tires Products Liability Litigation***, U.S. District Court, Southern District of Indiana.  
Court-appointed Liaison Counsel and Executive Committee Member in consolidated litigation involving international distribution of defective tires.
- ***Tuck v. Whirlpool et al.***, Marion County, Indiana, Circuit Court.  
Appointed Class Counsel in nationwide class action regarding defective microwave hoods. Settlement achieved in excess of \$7 million.
- ***Hackbarth et al. v. Carnival Cruise Lines***, Circuit Court of Dade County, Florida.  
Class Counsel in nationwide action challenging cruise lines' billing practices. Settlement valued at approximately \$20 million.
- ***Kenro, Inc. v. APO Health, Inc.***, Marion County Indiana, Superior Court.  
Appointed Class Counsel in case alleging violations of the Federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227. Settlement negotiated to create a common fund of \$4.5 million and provide benefits to class members of up to \$500 for each unsolicited fax advertisement received.
- ***Shilesh Chaturvedi v. JTH Tax, Inc. d/b/a Liberty Tax Service***, Court of Common Pleas, Allegheny County, Pennsylvania.  
Class Counsel in case involving Federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227. Settlement valued at \$45 million.
- ***Kenro, Inc. and Gold Seal Termite and Pest Control Company v. PrimeTV, LLC, and DirecTV, Inc.***, Marion County Indiana, Superior Court.  
Class Counsel in case involving the federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227. Following certification, the parties entered into nationwide settlement providing class members with benefits



worth in excess of \$500 million.

- ***Econo-Med Pharmacy, Inc. v. Roche Diagnostics Corp. et al.***, U.S. District Court, Southern District of Indiana.  
Class Counsel in Telephone Consumer Protection Act case alleging medical device company sent unsolicited junk faxes to 60,000 U.S. pharmacies. Settlement for \$17 million.
- ***McKenzie et. al. v. Allconnect, Inc.***, U.S. District Court, Eastern District of Kentucky.  
Class action on behalf of consumers whose highly sensitive personally identifiable information was compromised as a result of a data breach. Settlement for \$500,000, five (5) years of credit monitoring services, and monetary payments of \$100 to each settlement class member.

#### Bank Fee Cases

- ***Hill v. Indiana Members Credit Union***, Marion County Indiana, Superior Court.  
Class action on behalf of credit union members who were improperly assessed (1) non-sufficient funds fees on accounts that were never actually overdrawn; (2) multiple non-sufficient funds fees on a single transaction; (3) out of network ATM withdrawal fees; and (4) ATM balance inquiry fees. Settlement for \$3 million.
- ***Plummer v. Centra Credit Union***, Bartholomew County Indiana, Superior Court.  
Class action on behalf of consumers who were improperly assessed overdraft fees on accounts that were never actually overdrawn. Settlement for \$1.5 million.
- ***Terrell et. al. v. Fort Knox Federal Credit Union***, Hardin County Kentucky, Circuit Court.  
Class action on behalf of consumers who were improperly assessed (1) overdraft fees on transactions that were previously authorized on a sufficient available balance and (2) multiple insufficient funds fees on a single transaction. Settlement for \$4.5 million.
- ***Martin v. L&N Federal Credit Union***, Jefferson County Kentucky, Circuit Court.  
Class action on behalf of consumers who were improperly assessed overdraft fees on accounts that had sufficient funds to cover the transactions. Settlement for \$2.575 million.
- ***Cauley v. Citizens National Bank***, Sevier County Tennessee, Circuit Court.  
Class action on behalf of consumers who were improperly assessed overdraft fees on transactions that did not actually overdraw checking accounts. Settlement for \$500,000.

- ***Norwood v. The Camden National Bank***, Cumberland County Maine, Business and Consumer Court.  
Class action on behalf of consumers who were improperly assessed overdraft fees on accounts that were never actually overdrawn and also on phantom transactions—where an accountholder never made a withdrawal request and where an account balance was never reduced. Settlement for \$1.2 million.
- ***Tisdale v. Wilson Bank and Trust***, Davidson County Tennessee, Chancery Court.  
Class action on behalf of consumers who were improperly assessed overdraft fees on transactions that were previously authorized on an account with sufficient funds. Settlement for \$550,000.
- ***Johnson et. al. v. Elements Financial Credit Union***, Marion County Indiana, Commercial Court.  
Class action on behalf of consumers who were improperly assessed (1) overdraft fees on accounts that were never actually overdrawn; and (2) multiple insufficient funds fees on a single transaction. Settlement for \$775,000.
- ***Holt v. Community America Credit Union***, U.S. District Court, Western District of Missouri.  
Class action on behalf of consumers who were improperly assessed overdraft fees on accounts that were never overdrawn and multiple fees on a single item or transaction returned for insufficient funds. Settlement for \$2.325 million.
- ***Hawley et. al. v. ORNL Federal Credit Union***, Anderson County Tennessee, Circuit Court.  
Class action on behalf of consumers who were improperly assessed (1) overdraft fees on transactions that did not actually overdraw checking accounts; (2) overdraft fees on transactions made on the same day that a direct deposit should have been made available to cover the transaction subject to an overdraft fees; and (3) multiple non-sufficient funds fees on a single transaction. Settlement for \$470,000.
- ***Graves v. Old Hickory Credit Union***, Chancery Court of Tennessee.  
Action on behalf of credit union members who were charged overdraft fees on debit card and ATM transactions when the member's Available Balance was negative, but the member's Ledger Balance was positive. Settlement for \$500,000.

#### Human Rights Cases

- ***In re Holocaust Victims Assets Litigation***, U.S. District Court, Eastern District of New York.  
Selected as one of ten firms from the U.S. to serve on the Executive Committee in the prosecution of a world-wide class action against three

major Swiss banks to recover assets from the Nazi era. This litigation resulted in a \$1.25 billion settlement in favor of Holocaust survivors.

- ***Kor v. Bayer AG***, U.S. District Court, Southern District of Indiana. Action against an international pharmaceutical company for participating in medical experiments on concentration camp inmates during World War II. This action was resolved as part of a \$5 billion settlement negotiated under the auspices of the governments of the U.S. and Germany and led to the creation of the *Foundation for Remembrance, Responsibility and the Future*.
- ***Vogel v. Degussa AG***, U.S. District Court, District of New Jersey. Action against a German industrial enterprise for enslaving concentration camp inmates during World War II for commercial benefit. This action also was resolved in connection with the settlement which created the *Foundation for Remembrance, Responsibility and the Future*.

#### Health Care / Insurance Cases

- ***In re Indiana Construction Industry Trust***, Marion County, Indiana, Circuit Court. Lead Counsel in action against an insolvent health benefits provider from Indiana and surrounding states. Recovered approximately \$24 million for enrollees, providing nearly 100% recovery to victims.
- ***Coleman v. Sentry Insurance a Mutual Company***, United States District Court, Southern District of Illinois. Class Counsel on behalf of 6,847 policy holders in 11 states against insurer for breaching refund feature of auto insurance policies, which resulted in recovery of \$5,718,825.
- ***Davis v. National Foundation Life Insurance Co.***, Jay County, Indiana, Circuit Court. Class Counsel in action involving insureds who were denied health insurance benefits as a result of National Foundations' inclusion and enforcement of pre-existing condition exclusionary riders in violation of Indiana law. Settlement provided over 85% recovery of the wrongfully denied benefits.

#### Securities Fraud Cases

- ***Grant et al. v. Arthur Andersen et al.***, Maricopa County Arizona, Superior Court. Lead counsel in class action arising from the collapse of the Baptist Foundation of Arizona, involving losses of approximately \$560 million. Settlement achieved for \$237 million.
- ***In re: Brightpoint Securities Litigation***, U.S. District Court, Southern District of Indiana.

Class Counsel in securities fraud action that resulted in a \$5.25 million settlement for shareholders.

- ***City of Austin Police Retirement System v. ITT Educational Services, Inc., et al***, U.S. District Court, Southern District of Indiana.  
Co-lead counsel in action alleging misrepresentations by defendant and certain principals concerning enrollment and graduate placement, and a failure to disclose multiple federal investigations into defendant's operations and records.
- ***Beeson and Gregory v. PBC et al.***, U.S. District Court, Southern District of Indiana.  
Class Counsel in a nationwide class action with ancillary proceedings in the District of Connecticut, and the Southern District of Florida. Multi-million-dollar settlement that returned 100% of losses to investors.
- ***In re: Prudential Energy Income Securities Litigation***, U.S. District Court, Eastern District of Louisiana.  
Counsel for objectors opposing a \$37 million class action settlement. Objection successfully led to an improved \$120 million settlement for 130,000 class members.
- ***In re: PSI Merger Shareholder Litigation***, U.S. District Court, Southern District of Indiana.  
Obtained an injunction to require proper disclosure to shareholders in merger of Public Service Indiana Energy, Inc. and Cincinnati Gas & Electric.
- ***Dudley v. Ski World, Inc.***, U.S. District Court, Southern District of Indiana.  
Class counsel for over 5,000 investors in Ski World stock. Multi-million-dollar settlement.
- ***Stein v. Marshall***, U.S. District Court, District of Arizona.  
Class Counsel Committee member in action involving the initial public offering of Residential Resources, Inc. Nationwide settlement achieved on behalf of investors.
- ***Dominijanni v. Omni Capital Group, Ltd. et al.***, U.S. District Court, Southern District of Florida.  
Co-lead counsel in securities fraud class action. Nationwide settlement on behalf of investors.

#### Mass Medical Malpractice

- **Weinberger Litigation**, \$59 million in settlements.  
This litigation involved 282 plaintiffs who were patients of former ENT surgeon Mark Weinberger of Merrillville, Indiana. This mass medical malpractice included complaints ranging from unnecessary sinus surgeries and negligently performed surgeries to patient abandonment.

Weinberger [fled](#) the country after more than a dozen medical malpractice lawsuits were filed against him. He was also indicted on 22 counts of health care fraud and was later apprehended at the foot of the Italian Alps. Weinberger was ultimately sentenced to 7 years in prison for insurance fraud. Cohen & Malad, LLP attorneys served as Co-Counsel in these medical malpractice lawsuits and successfully negotiated \$59 million in settlements for the people Weinberger harmed.

- **Northwest Indiana Cardiology Group Litigation**, \$67 million settlement. This litigation involved over 260 claimants who were patients of a cardiology practice in northwest Indiana. This mass tort medical malpractice included complaints of unnecessary heart surgeries, coronary artery stenting, peripheral stenting, and pacemaker and defibrillator implantations, as well as negligent credentialing claims. Cohen & Malad, LLP attorneys are served as Co-Counsel in these medical malpractice lawsuits and successfully negotiated a settlement of over \$67 million.

#### Mass Tort Pharmaceutical Drug and Medical Device Litigation

- ***Gilead Tenofovir Cases***, JCCP No. 5043 (*pending*)  
Cohen & Malad, LLP is currently representing patients against Gilead Sciences who were prescribed its TDF-based drugs to treat HIV, for pre-exposure prophylaxis (PrEP) to mitigate HIV risk, or to treat Hepatitis, and suffered serious kidney and bone injuries. Thousands of cases are pending in the Superior Court for the County of San Francisco, California.
- ***Strattice Biologic Mesh*** (*pending*)  
Cohen & Malad, LLP is representing patients against LifeCell Corporation and Allergen who suffered injuries, including revision or removal surgeries, after receiving a Strattice mesh product for hernia repairs. These cases are currently pending in New Jersey State Court.
- ***In Re: Zofran (Ondansetron) Products Liability Litigation***, MDL No. 2657 (D. Mass) (*pending*)  
Cohen & Malad, LLP serves on the Plaintiff's Steering Committee, Narrative Committee, and Discovery, Briefing, and Science Committees in an action on behalf of women who took Zofran while pregnant and gave birth to a baby who suffered from a serious birth defect.
- ***In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation***, MDL No. 2738 (D. N.J.) (*pending*)  
Cohen & Malad, LLP is currently representing women who used Johnson & Johnson's talcum powder products for feminine hygiene and were diagnosed with ovarian cancer. Thousands of cases are currently pending.
- ***In Re: National Prescription Opiate Litigation***, MDL No. 2804 (N.D. Ohio) (*pending*)

Cohen & Malad, LLP is currently representing dozens of Indiana cities and counties in litigation against the manufacturers and distributors of opioid pain medications. This litigation is focused on combating the prescription opioid epidemic and replenishing valuable resources for Indiana communities that have spent vital economic resources responding to public health and safety issues resulting from this epidemic.

- **Biomet Metal on Metal Hip Replacement System** (pending)  
Cohen & Malad, LLP is representing patients in Indiana state court who were implanted with a Biomet M2a metal on metal hip replacement system and suffered serious injuries such as significant pain, tissue destruction, bone destruction, and metallosis. In many cases, revision surgeries were necessary within just a few years of implantation.
- ***In Re: Zantac (Ranitidine) Products Liability Litigation***, MDL No. 2924, (S.D. FL.) *(pending)*  
Cohen & Malad, LLP is representing patients who were diagnosed with cancer following the use of Zantac (ranitidine). The U.S. Food and Drug Administration issued a recall for all Zantac (ranitidine) drugs including over the counter and prescription formulas on April 1, 2020.
- ***In Re: Cook Medical, Inc., IVC Filters Marketing, Sales Practices and Products Liability Litigation***, MDL No. 2570 (S.D. Ind.) *(pending)*  
Cohen & Malad, LLP is representing patients alleging serious injury related to the use of Cook Medical's inferior vena cava (IVC) filters.
- ***In Re: Prempro Products Liability Litigation***, MDL No. 1507  
Cohen & Malad, LLP litigated hundreds of claims against Wyeth, the manufacturer of Prempro, for women who took hormone replacement therapy drug Prempro and suffered stroke, heart attacks, endometrial tumors or breast cancers. Wyeth agreed to a global settlement for more than \$890 million to settle roughly 2,200 claims.
- **Pain Pump Device Litigation**  
No MDL existed for this litigation. Cohen & Malad, LLP served in a National Coordinated Counsel role. This litigation was against pain pump manufacturers who marketed pain pumps to orthopedic surgeons for continuous intra-articular uses, despite the fact that intra-articular placement of the pain pump catheters was not approved by the FDA. The use of pain pumps in the joint space resulted in deterioration of cartilage, severe pain, loss of mobility or decreased range of motion and use of shoulder.
- **Yaz**  
Cohen & Malad, LLP represented hundreds of women in claims against Bayer over its Yaz and Yasmin birth control oral contraceptive. These drugs contained a synthetic version of estrogen called drospirenone that was linked to an increased risk for blood clots, stroke, and heart attack. As



of January 2016, Bayer agreed to pay \$2.04 billion to settle over 10,000 claims for blood-clot injuries.

- **Transvaginal Mesh**

Cohen & Malad, LLP represented hundreds of women in claims against transvaginal mesh manufacturers Ethicon, C.R. Bard, Boston Scientific, and American Medical Systems. Mesh implants are synthetic material used to support organs in women who suffer from pelvic organ prolapse and stress urinary incontinence. The FDA received thousands of complaints from women who suffered serious personal injury including perforated organs, infection, severe pain, and erosion of the mesh.

- ***In Re: Testosterone Replacement Therapy Products Liability Litigation***, MDL No. 2425 (N.D. Ill.)

Cohen & Malad, LLP served on the discovery team in action on behalf of men who took drug manufacturers' testosterone replacement therapy products and suffered injuries such as blood clots, heart attacks, strokes and death.

- ***In Re: Consolidated Fresenius Cases (Granuflo)***, MICV2013-3400-O, Commonwealth of Massachusetts, Middlesex County, Cohen & Malad, LLP served on the Plaintiff's Steering Committee, bellwether discovery program committee, and privilege log committee in an action on behalf of dialysis patients alleging the defendant's dialysis products caused cardiac injuries and death. There was a \$250 million global settlement.